

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD02-8

Date: November 14, 2002
69:96:va:6334

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: WOTC AND WtW TAX CREDIT PROGRAMS **(INACTIVE)**

EXECUTIVE SUMMARY:

Purpose:

This directive provides updated information to Local Workforce Investment Areas (LWIA) and Local Workforce Investment Boards (LWIB) regarding the reauthorization of the Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (WtW) Tax Credit programs under the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147). Additionally, this directive provides information regarding currently required WOTC and WtW Tax Credit program eligibility forms.

Scope:

This directive applies to all California LWIAs, LWIBs, and other entities contracting directly with the Employment Development Department (EDD) that operate programs funded under the Workforce Investment Act (WIA) and WtW programs.

Effective Date:

This directive is effective immediately.

REFERENCES:

- Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)
- Consolidated Appropriations Act, 2001 (Public Law 106-554)

STATE-IMPOSED REQUIREMENTS:

This document contains some State-imposed requirements. These requirements are indicated in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes WIA Directive WIAD01-7, dated September 12, 2001, and finalizes Draft Directive WIADD-44, issued for comment on October 10, 2002. Retain this directive until further notice.

BACKGROUND:

On December 21, 2000, the President's Community Renewal and New Markets Initiative was enacted as part of the Consolidated Appropriations Act, 2001 (Public Law 106-554). This legislation created 40 Renewal Communities targeted for pro-growth tax benefits including a 15 percent wage credit.

On March 9, 2002, the President signed the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147). It extended the WOTC and WtW Tax Credit programs for a 24-month period beginning January 1, 2002, and ending December 31, 2003, and makes the program's authority retroactive to December 31, 2001. The reauthorization applies to new hires that begin work with an employer in January 1, 2002, and before January 1, 2004.

The WOTC and WtW Tax Credit have two purposes: (1) to promote the hiring of individuals who qualify as a member of a target group, and (2) to provide a federal tax credit incentive for employers who hire these individuals.

Both the WOTC and WtW Tax Credit are figured on qualified wages paid to, or incurred on behalf of, target group individuals. The WOTC can only be claimed on an individual's first year wages, while the WtW Tax Credit may be claimed for wages earned during an individual's first two years of employment. The actual amount of tax credit depends on several factors including the employer's tax rate, target group of the individual hired, amount of wages earned, and retention period. For additional WOTC and WtW Tax Credit specifics, visit the WOTC Web site at www.edd.ca.gov/wotcind.htm.

The federal Department of the Treasury and Department of Labor (DOL) share administrative responsibility for the WOTC and WtW Tax Credit programs. The Department of the Treasury, through the Internal Revenue Service (IRS), administers the tax provisions of the credits while DOL, through the Employment and Training Administration (ETA), provides guidance and oversight to states about determination of target group eligibility and the processing and certification of job applicants as target group members to employers. State Employment Security Agencies (EDD in California) are named as the "designated local agencies" and are responsible for issuing both Conditional Certifications and final certifications for the WOTC and WtW Tax Credit programs. However, by federal law, EDD may delegate WOTC and WtW Conditional Certifications to a participating agency (as defined on the following pages).

POLICY AND PROCEDURES:

The WOTC is coordinated with the WtW Tax Credit; therefore, an employer cannot claim both credits with respect to the same individual in any one taxable year.

On-the-Job Training (OJT) Provision:

If, for any period, an employer receives federally funded payments for OJT for an employee, none of the wages paid to that employee for the OJT period qualify for the WOTC or WtW Tax Credit. However, the time spent by the employee receiving OJT qualifies the employer towards fulfilling the minimum employment period requirement (retention period).

WOTC and WtW Tax Credit Certification Procedures:

For the purposes of the WOTC and WtW Tax Credit, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by the EDD WOTC Center. The EDD's certification requirement may be satisfied in one of two ways. Under one approach, the employer must complete the *Pre-Screening Notice and Certification Request for the Work Opportunity and*

Welfare-to-Work Credits, [IRS Form 8850 \(Rev. 11-98\)/\(DE 8737 Rev. 2 \[5-99\]\)](#) and the *Individual Characteristics Form, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit*, [ETA 9061 \(Rev. 1-98\)/\(DE 8725 Rev. 4 \[12-98\]\)](#). These forms, which contain information on the prospective employee, must be completed on or before the day the individual is offered employment. Within 21 days after the individual begins work, the employer must submit the completed IRS Form 8850 and the ETA 9061 to EDD, requesting certification for WOTC. Subsequently, EDD returns a document to the employer certifying the individual as a member of a targeted group.

Under the other approach, an employer may receive a Conditional Certification from EDD or a participating agency on or before the day the prospective employee begins work, stating that the individual appears to be a member of a targeted group. The Conditional Certification is issued on the attached Conditional Certification, *Work Opportunity and Welfare-to-Work Tax Credits*, [ETA 9062 \(Rev. March 1998\)/\(DE 8726 Rev. 3 \[12-98\]\)](#). The employer then submits this form, along with the IRS Form 8850, to EDD for final certification. The employer must submit the IRS Form 8850 and the ETA 9062 within 21 days after the participant starts work.

The EDD retains the responsibility for final certifications. However, Conditional Certifications will be delegated to participating agencies. A participating agency is defined as a federal, state, or local government agency or a grantee of these agencies. Participating agencies may include, but are not limited to, EDD's Workforce Investment Division (WIA grantees), California School-to-Work Interagency Transition Partnership (School-to-Career transition grantees), California Department of Social Services (county welfare departments), Department of Rehabilitation (district branches and grantees), and Job Corps Centers.

Participating Agency Conditional Certification Procedures:

The Conditional Certification process begins when a job seeker comes to the local employment office, LWIA, or other participating agency to perform a job search, or in response to a positive recruitment.

To determine if a job-ready applicant is eligible and to issue a Conditional Certification for the WOTC and WtW Tax Credit programs, the LWIA must complete the ETA 9062; **this is a required form**. No modification or substitution of this form may be made. Complete the ETA 9062 with the following information:

1. Enter the initiating agency code. ***For LWIA/LWIB purposes, this will be the three-digit code assigned by the Job Training Automation system.*** Additionally, indicate with a check mark "✓" that the initiating agency is a participating agency rather than EDD. *Attachment 1* lists the codes to be used for this section.
2. Enter the control number. ***This will be the client's social security number.*** Again, indicate with a check mark "✓" that this form is initiated by a participating agency.
3. Under "Type of Conditional Certification Determination," distinguish between "Original," if the client is being processed for the first time; or "Revalidation," if the eligibility process was performed within the previous 12-month period (45 days for

the Ex-Felon and Summer Youth target groups only). Otherwise, the Conditional Certification is counted as "Original."

4. Enter the date (month, day, and year) in which the eligibility determination is completed.
5. Enter the following address for the EDD Job Service office issuing the final certification:

WOTC Center
P.O. Box 1408
Roseville, CA 95678
6. Sign and date the Conditional Certification, ETA 9062.
7. Enter the area code and telephone number of the agency issuing the Conditional Certification.
8. Enter the client's full name.
9. Enter the client's social security number.
10. Enter the client's home address, including apartment number and zip code.
11. For the WOTC program, enter a check mark "✓" in Box 11 to indicate if the client is summer Youth or Other, and enter the appropriate WOTC target group code. Refer to the WOTC and WtW Tax Credit target group definitions listed below to obtain the correct alpha code.
12. For the WtW Tax Credit, enter a check mark "✓" in Box 12 to indicate Conditional Certification for the Long-Term Family Assistance group. Enter the alpha code for this specific target group.
13. Have the client sign the Conditional Certification form.
14. Enter the month, day, and year when the Conditional Certification expires.

Note: The validity period of a Conditional Certification that is based on an economic determination (i.e., Qualified Ex-Felon, Group C) is 45 days. Revalidation of the Conditional Certification is required if the 45 days have elapsed.

All other target groups have no predetermined validity period. However, the WOTC eligible job seeker is required to meet the specific requirements of his or her target group(s) at the time of hire.

The participant is provided the original Conditional Certification form. The participating agency may also include a copy of the IRS Form 8850 and may assist in completion of the applicant section. No supporting documentation is required to accompany the Conditional Certification form when presented to employers. The participant will present the original Conditional Certification form to prospective employers during the interview/hiring process. If the participant is offered employment, it is the employer's responsibility to complete boxes 15 through 20 on the Conditional Certification form and submit it, along with the IRS Form 8850, to EDD for final certification.

By federal law, participating agencies are required to retain a copy of the Conditional Certification form and supporting documentation for a period of five years after the Conditional Certification is issued. During each quarter EDD will draw, for the purposes of auditing, a 10 percent sample of all certifications issued during the quarter, including those for qualified summer youth employees. The audit will be conducted to establish the credibility and reliability of the eligibility determination and certification process. Should the random draw include Conditional Certifications issued by participating agencies, these agencies may be contacted by EDD and requested to submit copies of the documentation that supports their finding of WOTC and WtW Tax Credit target group eligibility.

Attachment 2 lists types of acceptable documentation that may be used when performing Conditional Certification eligibility determinations.

WOTC and WtW Tax Credit Target Group Definitions:

Group A—Qualified Recipient of AFDC or TANF

Any individual who is a member of a family receiving Aid to Families with Dependent Children (AFDC) or Temporary Assistance for Needy Families (TANF) (or a successor program) for any 9 months during the last 18 months ending on the hiring date.

Group B—Qualified Veteran

Any individual who is a member of a family receiving food stamps for at least 3 months during the last 15 months; **AND**:

- a) Having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, **OR**
- b) Having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, **AND**
- c) Not having any day during the 60-day period ending on the hiring date, which was a day of extended active duty in the Armed Forces of the United States.

Group C—Qualified Ex-Felon

Any individual who:

- a) Has been convicted of a felony under any statute of the United States, or any state,
- b) Has a hiring date which is not more than one year after the last date on which such individual was so convicted or was released from prison, **AND**
- c) Is a member of a family which has an income during the 6 months immediately preceding the earlier of the following two months: the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis would be 70 percent or less of the Bureau of Labor Statistics Lower Living Standard Income Level (LLSIL).

The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a state court places the individual on probation without a finding of guilty (deferred adjudication).

Ex-felons who are participating in a transitional program, e.g., work release, are eligible for the WOTC initiative if they were convicted of a felony **and** are members of an economically disadvantaged family.

Family/member of a family means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A stepchild or a stepparent is considered to be related by marriage.

Group D—Qualified High-Risk Youth

Any individual who is:

- a) Age 18 but not age 25 on the hiring date, **AND**
- b) Resides within a federally designated Empowerment Zone, Renewal Community, or Enterprise Community.

Refer to *Attachment 3* for additional information regarding Empowerment Zones, Renewal Communities, and Enterprise Communities.

Group E—Vocational Rehabilitation Referral

Any individual who:

- a) Has a physical or mental disability which results in a substantial barrier to employment, **AND**
- b) Has been referred to the employer upon completion, or within two years of completion, or while receiving rehabilitative services under a written state plan approved under the Rehabilitation Act of 1973 or a program for veterans carried out under Chapter 31 of Title 38, United States Code.

Group F—Qualified Summer Youth

Any individual who:

- a) Performs services for the employer between May 1 and September 15, **AND**
- b) Is age 16 but not yet 18 on the hiring date (or if later, on May 1 of the calendar year involved), **AND**
- c) Has not been an employee during any period prior to the 90-day employment period allowed, **AND**
- d) Resides within a federally designated Empowerment Zone, Renewal Community, or Enterprise Community and has not previously worked for the employer seeking this tax credit. Qualified wages shall not include wages paid or incurred for services performed while the individual lived outside of the Empowerment Zone, Renewal Community, or Enterprise Community.

Group G—Qualified Food Stamp Recipient

Any individual who:

- a) Is age 18 but not 25 on the hiring date, **AND**
- b) Is a member of a family receiving food stamps for the 6-month period ending on the hiring date, **OR**

- c) Is receiving food stamps for at least 3 months of the 5-month period ending on the hiring date and is no longer eligible for benefits.

Group H—Qualified Supplemental Security Income (SSI) Recipient

Any individual who is certified by the designated local agency as receiving SSI benefits under Title XVI of the Social Security Act (including benefits of the type described in Section 1616 of the Act or Section 212 of Public Law 93-66) for any month ending within the 60-day period ending on the hiring date.

Group I—Long-Term Family Assistance Recipient (WtW Tax Credit program only)

(Individuals who began work on or after January 1, 1998)

- a) Any individual who is a member of a family receiving AFDC/TANF for at least 18 consecutive months ending on the hiring date, **OR**
- b) As being a member of a family receiving AFDC/TANF for any 18 months beginning after August 5, 1997, and is hired within two years, **OR**
- c) Who stopped being eligible for AFDC/TANF after August 5, 1997, because federal or State law limited the maximum time those payments could be made, and is hired within two years of the cessation of those payments.

ADDITIONAL INFORMATION:

For more information on the WOTC and WtW Tax Credit programs, contact the WOTC Center at (916) 774-4374 or toll-free at (866) 593-0173, or visit the WOTC Web site:

General Information: www.edd.ca.gov/wotcind.htm

Forms and Publications: www.edd.ca.gov/wotcform.htm

The WOTC and WtW Tax Credit forms and publications are also available through your local [EDD Job Service site](#).

ACTION:

Bring this directive to the attention of appropriate staff.

INQUIRIES:

Address questions regarding this directive to your assigned [Regional Advisor](#) at (916) 653-6347 or Georganne Pintar Baldwin, Local Policy Guidance Unit Manager, at (916) 654-7611. Questions pertaining to Conditional Certification may be addressed to Christine Russo, Job Services Division, at (916) 654-8195.

/S/ BOB HERMSMEIER

Acting Chief

Workforce Investment Division

Attachments

INITIATING AGENCY CODES

Local Workforce Investment Area	Initiating Agency Code	Local Workforce Investment Area	Initiating Agency Code
Alameda County	ALA	Orange County	ORA
Anaheim	ANA	Richmond City	RCH
Carson/Lomita/Torrance Consortium	CLT	Riverside County	RIV
Contra Costa County	CON	Sacramento City/County Consortium	SAC
Foothill Employment & Training Consortium	FET	San Benito County	SBE
Fresno City/County Consortium	FRS	San Bernardino City	SBI
Golden Sierra Consortium	GSC	San Bernardino County	SBO
Humboldt County	HUM	San Diego Consortium	SDC
Imperial County	IMP	San Francisco City/County	SFO
Kern/Inyo/Mono Consortium	KIM	San Joaquin County	SJC
Kings County	KNG	San Jose	SJI
Long Beach City	LBC	San Luis Obispo County	SLO
Los Angeles City	LAI	San Mateo County	SMC
Los Angeles County	LAO	Santa Ana City	SAN
Madera County	MAD	Santa Barbara County	SBA
Marin County	MAR	Santa Cruz County	SCR
Mendocino County	MEN	SELACO	SEL
Merced County	MER	Solano County	SOL
Monterey County	MON	Sonoma County	SON
Mother Lode Consortium	MLC	South Bay Consortium	SBY
Napa County	NAP	Stanislaus County	STN
NoRTEC Consortium	NOR	Tulare County	TUL
North Central Consortium	NCC	Ventura County	VNP
NOVA Consortium	NOV	Verdugo Consortium	VER
Oakland City	OAK	Yolo County	YOL

**EXAMPLES OF DOCUMENTARY EVIDENCE OR COLLATERAL CONTACT
FOR ESTABLISHING AND VERIFYING EMPLOYMENT**

Note: This list is not intended to be all-inclusive.

Age/Birth Date

(required for High Risk Youth, Summer Youth, and Food Stamp groups)

- Birth certificate
- Driver's license
- School I.D./school records
- Work permit
- Federal/State/local government I.D.*
- Hospital record of birth

Family Income

(required for Ex-Felon group)

- Pay stubs
- Employer contacts
- W-2 forms
- Unemployment Insurance documents
- Public assistance records
- Family member statements
- Parole officer's statement

Vocational Rehabilitation Referral

- Vocational Rehabilitation agency contact
- Social services agency contact
- Veteran's Administration contact

Ex-Felon Status

- Parole officer's name
- Corrections institution records
- Court records, extracts
- Contacts

**Temporary Assistance for Needy Families/Aid to Families with Dependent
Children (TANF/AFDC) Recipient and Long-Term Assistance Recipient**

- AFDC benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case number/identifier

*Where any item of documentary evidence does not contain the holder's age or birth date, staff must obtain another documentary source to verify the individual's age.

Veteran Status

- DD-214
- Reserve unit contacts
- Discharge papers

Number In Family

(required for Ex-Felon group)

- Public assistance
- Social services agencies
- Family member's statement
- Parole officer's statement

SSI Recipient

- SSI record or authorization
- SSI contact
- Evidence of SSI issuance

Empowerment Zone/Renewal Community/Enterprise Community

- Driver's license
- Work permit
- Utility bills
- Lease documents
- Voter registration card
- Computer printout from other government agencies
- Food stamp award letter
- Housing authority verification
- Landlord's statement
- Letter from social service agency or school
- Library card**
- Medicaid/Medicare card
- Property tax record
- Postmarked envelope addressed to applicant
- Public assistance records
- Rent receipt
- School I.D. card
- Selective Service registration card
- W-4

Food Stamp Recipient

- Food stamp benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case number/identifier

** Where any item of documentary evidence does not contain the holder's address, staff must obtain another documentary source to verify the individual's address.

FEDERAL EMPOWERMENT ZONES, RENEWAL COMMUNITIES AND ENTERPRISE COMMUNITIES

Federal Empowerment Zone, Renewal Community, and Enterprise Community (EZ/RC/EC) refer to an area or combination of areas meeting certain population, size and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment and general distress.

California has four Empowerment Zones, three Enterprise Communities, and five Renewal Communities.

The four Empowerment Zones are in:

- Riverside County
- Fresno
- Los Angeles
- Santa Ana

The three Enterprise Communities are in:

- Oakland
- Imperial County
- Watsonville City/City of Santa Cruz

The five Renewal Communities are in:

- Los Angeles
- Orange Cove (Fresno County)
- Parlier (Fresno County)
- San Diego
- San Francisco

Because only certain census tracts within a zip code area are in an EZ/RC/EC, not every summer or high-risk youth who resides in the areas indicated above are eligible for the Work Opportunity Tax Credit (WOTC) certification. To verify an applicant's address to ensure that his/her residence is in the EZ/RC/EC, you may enter the individual's address on the EZ/RC/EC Web site at hud.esri.com/EGIS/.

The system will check the address and confirm whether it is in an EZ/RC/EC. You may also link to this EZ/RC/EC Web site through the Employment Development Department (EDD) WOTC Web site at www.edd.ca.gov/wotcind.htm.

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development (HUD) Information Center at (800) 998-9999, and they will check the address for you.

The EDD is an equal opportunity employer/program. Auxiliary services and assistance are available to persons with disabilities. The Telecommunications Device for the Deaf (TDD) users can reach EDD through California Relay Service at (800) 735-2929.